D.B.INCOME TAX APPEAL NO.135/2006

C.I.T., Aaykar Bhawan, Jodhpur
V/s
Dr. D.N.Sen

Date of Order : 04.04.2007

HON'BLE MR JUSTICE RAJESH BALIA
HON'BLE MR JUSTICE BHANWAROO KHAN

Mr Sangeet Lodha, for the petitioner.

In-spite of issuing direction on 18.12.2006 to place on record the reasons recorded by the Assessing Officer before issuing notice under Section 148 of the Income Tax Act, the reasons have still not been placed on record. According to the learned counsel, the record is not traceable. The CIT (Appeals) has found from the record that there was no material on the basis of which Income Tax Officer could have held belief that income of the assessee has escaped assessment to tax for assessment year 1989-90.

For the assessment year 1989-90, notices for reassessment has been issued on the basis of valuer's report obtained by the revenue after about six years of construction of house in question. The construction made in the house was already disclosed by the assessee while submitting his return for the assessment year 1989-90 and he has also submitted valuer report, with regard to construction of his house.

Merely on the basis of subsequent valuer report having different report does not provide any material for holding that income for making assessment has escaped assessment by considering one estimate against another estimate about cost of construction of house. Therefore, the findings given by the CIT (Appeals) and Tribunal that there was no material for formation of an honest belief about escapement of income of assessee from tax but was a case of mere suspicion. On this ground the reassessment proceedings were quashed by the CIT (Appeals) and the same was upheld by the Tribunal.

We are of the opinion that these are findings of fact recorded by the appellate authority does not give rise to any substantial question of law.

Accordingly, the appeal fails and is hereby dismissed.

(BHAWAROO KHAN),J. (RAJESH BALIA),J.

Rm/-